

CHAPTER 22
ALTERNATIVE VOTING SYSTEMS

[Prior to 7/13/88, see Secretary of State[750] Ch 10]

TESTING AND EXAMINATION OF VOTING EQUIPMENT

721—22.1(52) Definitions for certification of voting equipment.

“Accredited independent test authority” means a person or agency that is formally recognized by the National Association of State Election Directors as competent to design and perform qualification tests for voting system hardware and software.

“Certification” means formal approval of voting machines or electronic voting equipment for use in Iowa pursuant to Iowa Code sections 52.5, 52.7 and 52.26.

“Examiners” means the board of examiners for voting machines and electronic voting systems described in Iowa Code section 52.4.

“Qualification test” means the examination and testing of an electronic voting system by an independent test authority using Performance and Test Standards for Punchcard, Marksense, and Direct Recording Electronic Systems, as adopted by the Federal Election Commission January 25, 1990, and as amended April 1990, to determine if the system complies with those standards.

“Vendor” means a person or representative of a person owning or being interested in a voting machine or electronic voting system seeking certification of the equipment for use in elections in Iowa.

“Voting booth” means an enclosure designed to be used by a voter while marking a paper ballot, special paper ballot or ballot card.

“Voting equipment” means voting machines and electronic voting systems which are required by Iowa Code sections 52.5, 52.7, and 52.26 to be approved for use by the examiners.

721—22.2(52) Voting system standards. All electronic voting systems and machines approved for use by the Board of Examiners after December 31, 1997, shall meet Performance and Test Standards for Punchcard, Marksense, and Direct Recording Electronic Systems, as adopted by the Federal Election Commission January 25, 1990, and as amended April 1990. The report of an accredited independent test authority certifying that the system is in compliance with these standards shall be submitted with the application for examination.

This rule is intended to implement Iowa Code section 52.5.

721—22.3(52) Examiners. The examiners annually shall elect a chairperson. All three examiners must be present for any formal action. Approval by two of the three examiners is required to approve any action to be taken by the examiners.

22.3(1) Notice of the time and place of any meeting by the board of examiners must be published pursuant to Iowa Code section 21.4.

22.3(2) Meetings of the examiners are open to the public, except that closed meetings may be held as permitted by Iowa Code section 21.5.

22.3(3) Correspondence and materials required to be filed with the Board of Examiners shall be addressed to the examiners in care of the Elections Division, Office of the Secretary of State, Second Floor, Hoover Building, Des Moines, Iowa 50319.

721—22.4(52) Fees and expenses paid to the examiners.

22.4(1) The examiners shall be reimbursed for travel to and from the meeting place at the rate specified in Iowa Code section 70A.9. The examiners shall also be reimbursed for actual expenses for meals and lodging, if necessary.

a. If the meeting was called for the purpose of examining, reexamining, testing, or discussing the certification of voting equipment offered by a vendor, the examiners' expenses shall be paid by the vendor within seven days following the completion of the examination and testing of the voting equipment.

b. If the meeting was called for the purpose of advising the secretary of state regarding administrative rules for the examiners, or to hear complaints or requests for decertification of voting equipment, or any other business of interest to the examiners, the expenses shall be paid by the secretary of state.

22.4(2) The vendor shall pay the examiners the amount of compensation specified in Iowa Code section 52.6 at the beginning of each meeting for which compensation is required to be provided to the examiners. The fee shall be paid as follows:

a. For each meeting or series of meetings held for the purpose of certifying a voting machine, electronic voting system or voting booth.

b. For each meeting or series of meetings for reconsideration of a voting machine, electronic voting system or voting booth after denial of certification.

c. If the examiners schedule examinations of voting booths offered by more than one vendor at a single meeting, the fee shall be divided equally among the vendors.

d. The examiners shall waive the examination fee if a voting booth is submitted for examination by a county commissioner of elections pursuant to rule 22.19(52).

This rule is intended to implement Iowa Code sections 17A.19, 49.25(3), 52.5, 52.6, and 52.26.

721—22.5(52) Examination of voting equipment—application. Any vendor who wishes to apply for certification of voting equipment for use in the state of Iowa shall apply to the secretary of state for an appointment with the examiners. The application shall include five copies of each of the following:

22.5(1) History of the equipment to be examined. This history shall include a complete description of the equipment to be examined, descriptions of any previous models of the equipment, the date the system to be examined went into production, and a complete list of jurisdictions which have used the equipment. The user list shall include jurisdictions which used the equipment experimentally without purchasing it, jurisdictions which purchased earlier versions of the equipment to be examined, and jurisdictions which purchased the current version of the equipment to be examined.

22.5(2) Copies of all manuals developed for use with the system including, but not limited to, technical manuals for repair and maintenance of the equipment, operations manuals for election officials, printer's manuals for ballot production, and any other written documents prepared by the vendor that describe the operation, use, and maintenance of the machine.

22.5(3) Report of an accredited independent test authority certifying that the system is in compliance with the Federal Election Commission's Performance and Test Standards for Punchcard, Marksense, and Direct Recording Electronic Systems. Copies of these reports are confidential records as defined by Iowa Code section 22.7 and Iowa Code chapter 550. Independent test authority reports shall be available to the secretary of state, deputy secretary of state, director of elections, and any other person designated by the secretary of state to have a bona fide need to review the report. No other person shall have access to the reports and no copies shall be made. All independent test authority reports shall be marked "CONFIDENTIAL" and shall also be accompanied by a list of those persons who are authorized to examine the report. The reports shall be kept in a locked cabinet.

22.5(4) Copies of the reports of any test authority who has examined the equipment in conjunction with certification requirements of other states.

22.5(5) Reports of the certifying authorities of any other states that have examined the equipment, whether or not the equipment was approved for use.

22.5(6) Brochures, photographs and advertising material used to encourage sales of the equipment.

22.5(7) Manuals for the use and maintenance of any components of the equipment that are not manufactured by the vendor.

22.5(8) Descriptions of the equipment including the methods used to comply with the requirements of Iowa Code section 52.7, if the equipment to be examined is a voting machine, or Iowa Code section 52.26, if it is an electronic voting system.

22.5(9) Reserved.

22.5(10) Request for examination and test. The following form shall be filed with the materials required above:

STATE OF IOWA
REQUEST FOR EXAMINATION AND TEST
BY THE BOARD OF EXAMINERS FOR VOTING MACHINES
AND ELECTRONIC VOTING SYSTEMS

Equipment to be examined, including name, model number, and version numbers for hardware and software: _____

Date this version became available for purchase: _____

Vendor: _____

Address: _____

City, State, Zip: _____

Telephone number: _____ Fax number: _____

Person to contact: _____ Title: _____

Type of equipment (check one):

- ☐ Voting machine (mechanical)
- ☐ Voting machine (direct recording electronic)
- ☐ Electronic voting system (precinct count)
- ☐ Electronic voting system (central count)

I request that the Iowa Board of Examiners for Voting Machines and Electronic Voting Systems examine and test the equipment described above and in the attached documents for the purpose of determining whether this equipment will be certified for use in the State of Iowa. I will pay the costs of this examination, including the examiners' fees and expenses. I understand that the examiners' fee of one hundred fifty dollars (\$150) each is to be paid before the examination begins.

I will also pay the fees of any consultants employed by the examiners to assist in the evaluation of the equipment and to advise the examiners as to the sufficiency of the equipment. I understand that I have the right to suggest the names of reliable independent test authorities to the examiners and may decline to submit the equipment to the examination of an individual for good reason.

I understand that a production model of the equipment submitted for certification shall be made available to the examiners and their consultant, if any.

I agree to submit this equipment for further examination if any changes are made following its approval for use. I understand that certification will be denied or rescinded if the examiners determine that this voting equipment does not meet the requirements of the Code of Iowa and Iowa Administrative Code.

I understand that voting machines or voting systems that have not been approved by the examiners cannot be used at any election in the State of Iowa.

Signed: _____

Title: _____

State of _____

County of _____

Signed and sworn to (or affirmed) before me on _____ (Date)

by _____ .

NOTARY PUBLIC (or title of other officer
authorized to perform notarial acts)

721—22.6(52) Review of application by examiners. Upon receipt of the application, the secretary of state shall immediately forward copies of the application to each of the examiners. The examiners shall review the application and within seven days a date shall be set for the examiners to meet and examine the equipment. If additional information is needed by the examiners, they may delay setting a date for the examination pending the submission of the requested materials.

721—22.7(52) Consultant. If the examiners determine that a consultant is necessary to determine whether a system meets the requirements of Iowa law, they shall notify the vendor of the decision. The vendor may suggest the names of reliable independent test authorities to the examiners and may decline to submit the equipment to the examination of an individual for good reason.

A consultant shall be employed if no other state has certified the equipment for use. The examiners may require a consultant if the equipment has been modified following certification by other states, or if the examiners believe it to be necessary.

If a test authority has been determined to be necessary by the examiners and a suitable consultant cannot be agreed upon by the examiners and the vendor, the equipment shall not be approved for use.

721—22.8(52) Contact other users. The examiners shall contact a representative sample of the users of the equipment to determine the nature of the experience of other users.

721—22.9(52) Testing the equipment. The vendor shall provide to the examiners one, or more, if deemed necessary by the examiners, production models of the equipment submitted for certification. The equipment shall be prepared by the examiners with the aid of the vendor to be tested at two sample elections: a sample partisan primary election, and a sample general election.

22.9(1) Test county for central count systems. Voting equipment which is designed to be used for tabulation of ballots at a counting center pursuant to Iowa Code section 52.34 shall be tested using a model county consisting of 155 precincts, with 180,000 registered voters. The county shall include one U.S. Congressional District, five state senate districts, 11 state house of representatives districts, and 30 townships. Each township shall include both rural voters (who are eligible to vote for township officers) and city voters (who are not eligible to vote for township officers).

22.9(2) Test county for absentee systems. Voting equipment which is designed to be used for tabulation of absentee ballots only shall be tested using a model county consisting of 155 precincts, with 180,000 registered voters. The county shall include one U.S. Congressional District, five state senate districts, 11 state house of representatives districts, and 30 townships. Each township shall include both rural voters (who are eligible to vote for township officers) and city voters (who are not eligible to vote for township officers).

22.9(3) Test precinct for precinct count systems. The test precinct shall include both rural voters (who are eligible to vote for township officers) and city voters (who are not eligible to vote for township officers).

22.9(4) All requirements for preparation and printing of test ballots shall be met in the preparation of ballots for the test elections including, but not limited to, rotation of candidates' names and the provision of space for write-in votes.

22.9(5) Test ballots provided by vendor. The vendor shall provide the ballots to be used in the testing of the equipment. A total of at least 2000 ballots shall be printed for each of the two test elections. One thousand ballots for each test election shall be marked and manually tabulated by the vendor to use as a test of the ability to tabulate results accurately. The balance of the ballots shall be delivered to the examiners before the date set for the examination. The examiners shall mark and manually tabulate an additional set of at least 300 test ballots.

721—22.10(52) Test primary election for three political parties.

22.10(1) *Closed primary election.* Voters may only cast votes for the candidates of one of the parties.

22.10(2) *Offices.* The following offices shall each have two candidates for each party. Candidate names shall be rotated as required by Iowa Code section 43.28.

- a. U.S. Senator
- b. U.S. Representative
- c. Governor
- d. Secretary of State
- e. Auditor of State
- f. Treasurer of State
- g. Secretary of Agriculture
- h. Attorney General
- i. State Senator
- j. State Representative
- k. County Supervisor (vote for no more than three of six candidates)
- l. County Treasurer
- m. County Recorder
- n. County Attorney
- o. Township Clerk
- p. Township Trustee

22.10(3) *Write-in votes.* Spaces for write-in votes shall be provided for each office on the ballot. The number of spaces shall equal the number of persons to be elected to the office.

721—22.11(52) Test general election. The ballots for the test general election shall include the following:

22.11(1) Offices. In the test general election all of the above offices shall be included with the addition of candidates for lieutenant governor to be voted for jointly with each candidate for governor. Each political party and nonparty political organization shall have one candidate for each office that appeared on the primary ballot, except county supervisor, which shall have three candidates for each party and nonparty political organization. Names of candidates for county supervisor shall be rotated as required by Iowa Code section 49.31, subsection 2.

The following nonpartisan offices shall also be included on the ballot with the heading “Nominated by Petition”:

- a. Regional Library Trustee
- b. County Public Hospital Trustee
- c. Soil and Water Conservation District Commissioners
- d. Agricultural Extension Council

22.11(2) Judicial ballot. Portions of the judicial ballot may be printed separately if necessary.

- a. Supreme Court (five justices)
- b. Appeals (four judges)
- c. District Court (six judges)
- d. District Associate Judges (three judges)

22.11(3) Public measures.

- a. Constitutional Amendments (two)
- b. Local public measures (three)

22.11(4) Straight party voting for three political parties and five nonparty political organizations.

22.11(5) Write-in votes. Spaces for write-in votes shall be provided for each office on the ballot. The number of spaces shall equal the number of persons to be elected to the office. This does not include judges standing for retention.

721—22.12(52) Report. The examiners shall prepare a report explaining the examination and test procedures followed in evaluating the voting equipment submitted for examination. The report shall clearly state whether the voting equipment has been approved or denied approval for use in Iowa.

22.12(1) Approval permits use. If the report states that the equipment has been approved for use, it may be adopted for use at elections.

22.12(2) Copy filed with the secretary of state. A copy of the report shall be filed with the secretary of state. A copy of the application of the vendor and all other documents submitted by the vendor shall be filed with the report and retained by the secretary of state.

721—22.13(52) Notification. The examiners shall promptly notify the vendor of their decision and shall provide the vendor with a copy of their report.

721—22.14(52) Denial of certification. If the examiners find that the equipment does not meet the requirements prescribed by the Code of Iowa and the Iowa Administrative Code, the examiners shall deny certification to the equipment. The report of the board shall specify the reasons for the denial, as well as all areas in which the equipment complied with the requirements of the law. Certification may be denied for any of the following reasons:

22.14(1) The absence of any feature required by Iowa Code section 52.5 or 52.7 for voting machines, or section 52.26 for electronic voting systems.

22.14(2) Failure to pay the examiners' fees and expenses, or the fees of any consultant mutually agreed upon by the examiners and the vendor.

22.14(3) Failure to provide the examiners with a complete application as required by rule 22.5(52).

22.14(4) Failure of the equipment to produce accurate results in one or both of the test elections. The test groups of ballots shall be tabulated manually to determine the expected outcome of each test election. If the equipment fails to reproduce exactly the results of the manual tabulation, the system shall not be approved for use, unless it can be demonstrated that the manual tabulation was in error and the machine tabulation was accurate.

721—22.15(52) Application for reconsideration. Following denial of certification a vendor may make the necessary modifications to the system and apply for reconsideration. Aspects of the equipment which were approved in the initial application do not need to be reexamined unless the examiners find that the modifications may have affected the ability of the equipment to comply in other areas. If certification was denied for the reasons cited in 22.14(1) or 22.14(4), both test elections must be completed satisfactorily, or approval shall not be granted.

721—22.16(52) Appeal. If the vendor believes the denial of certification is in error, the vendor must file written exceptions with the examiners within 30 days after issuance of the report. The examiners will issue a response to the exceptions within 30 days after filing of the exceptions. A vendor who is aggrieved or adversely affected by a denial after a ruling on exceptions may seek judicial review pursuant to Iowa Code section 17A.19.

721—22.17(52) Reexamination following changes in equipment. The vendor shall notify the examiners of any changes in the equipment including changes in tabulation software, firmware, and hardware. The vendor shall provide to the examiners the following information when requesting recertification:

22.17(1) Description of the changes made.

22.17(2) Reports of test results conducted for other states following the modifications to the equipment.

22.17(3) Copies of manuals, instructions, advertisements and other documents required to be included with the application that have been modified since the original application was submitted.

22.17(4) A new request for examination and test as required by subrule 22.5(10).

721—22.18(52) Rescinding certification.

22.18(1) *Grounds for rescinding certification.* Certification may be rescinded if it is found that:

a. The equipment does not produce accurate results and reports as required for an election.

b. Material changes have been made in the equipment that do not comply with requirements for certification.

c. Equipment which has been certified for use has not been adopted by any county in Iowa, or is no longer used by any county in Iowa, and is no longer available for purchase from the manufacturer. The examiners may rescind certification of such voting equipment without a complaint or contested case proceedings.

d. Any other grounds that may materially affect delivery or performance of the equipment.

22.18(2) Procedure for rescinding certification. Complaints regarding voting equipment certified for use in Iowa shall be filed with the secretary of state. The examiners shall review all complaints and may initiate a contested case to rescind certification on any ground listed above. The contested case may be conducted before the examiners or before an administrative law judge. A contested case for rescinding certification shall be conducted, to the extent applicable, in accordance with the procedural rules specified in 481—Chapter 10, Iowa Administrative Code.

22.18(3) Suspension of certification. If the administrative law judge hearing the contested case, or the examiners, as the case may be, find that the voting equipment can be modified to correct the deficiency, certification may be suspended until the deficiency is corrected. If it is found that the deficiency is limited to a specific flaw not present in all models of the equipment, the suspension may be limited to the deficient models. While certification is suspended, the equipment may not be used for any election.

After the required modifications have been made the vendor may apply for reexamination of the equipment following the procedure described in rule 22.17(52).

22.18(4) Further use prohibited. If certification of voting equipment is rescinded without qualification, no further use shall be permitted by any county.

These rules are intended to implement Iowa Code sections 17A.12, 21.4, 21.5, 52.4, 52.5, 52.6, 52.7, 52.26, and 70A.9.

721—22.19(52) Examination of voting booths—application. Any vendor who wishes to apply for approval of a voting booth for use in the state of Iowa shall apply to the secretary of state for an appointment with the examiners. The application shall include five copies of each of the following:

22.19(1) History of the voting booth to be examined. This history shall include a complete description of the voting booth to be examined, descriptions of any previous models of the voting booth, the date the voting booth to be examined went into production, and a list of jurisdictions which have used the voting booth.

22.19(2) Copies of all manuals developed for use with the voting booth including, but not limited to, technical manuals for repair and maintenance of the voting booth, assembly manuals for election officials, and any other written documents prepared by the vendor that describe the operation, use and maintenance of the voting booth.

22.19(3) Copies of the reports of any test authority who has examined the voting booth in conjunction with certification requirements of other states.

22.19(4) Reports of the certifying authorities of any other states who have examined the voting booth, whether or not the voting booth was approved for use.

22.19(5) Brochures, photographs and advertising material used to encourage sales of the voting booth.

22.19(6) Manuals for the use and maintenance of any components of the voting booth that are not manufactured by the vendor.

22.19(7) A list of jurisdictions using the booth.

22.19(8) Request for examination. The following form shall be filed with the materials required above:

STATE OF IOWA
REQUEST FOR EXAMINATION OF VOTING BOOTH
BY THE BOARD OF EXAMINERS FOR VOTING MACHINES
AND ELECTRONIC VOTING SYSTEMS

Name of model(s) to be examined: _____
Vendor or Commissioner: _____
Address: _____
City, State, Zip: _____
Telephone number: _____
Person to contact: _____

I request that the Iowa Board of Examiners for Voting Machines and Electronic Voting Systems examine the voting booth(s) described above and in the attached documents for the purpose of determining whether this voting booth will be approved for use in the State of Iowa. If required to do so, I will pay the costs of this examination, including the examiners' fees and expenses. I understand that the examiners' fee of one hundred fifty dollars (\$150) each is to be paid before the examination begins. If more than one vendor presents booths to be examined, I understand that the examiners' fees will be divided equally among the vendors. (Fees shall be waived for examination of voting booths for county commissioners.)

I understand that a production model of the voting booth submitted for certification shall be made available to the examiners.

I agree to submit subsequent models of this voting booth for further examination if any changes are made following its approval for use. I understand that certification will be denied or rescinded if the examiners determine that this voting booth does not meet the requirements of the Code of Iowa and Iowa Administrative Code.

I understand that voting booths that have not been approved by the examiners cannot be used at any election in the State of Iowa.

Signed: _____
Title: _____

State of _____
County of _____

Signed and sworn to (or affirmed) before me on _____ (date)
by _____.

NOTARY PUBLIC (or title of other officer
authorized to perform notarial acts)

721—22.20(52) Review of application by examiners. Upon receipt of the application, the secretary of state shall immediately forward copies of the application to each of the examiners. The examiners shall review the application and within seven days a date shall be set for the examiners to meet and examine the voting booth. If additional information is needed by the examiners, they may delay setting a date for the examination pending the submission of the requested materials.

721—22.21(52) Contact other users. The examiners shall contact a representative sample of the users of the voting booth to determine the nature of the experience of other users.

721—22.22(52) Criteria for approval. Voting booths must meet the following criteria:

1. Voting booths must provide for voting in secrecy.
2. Voting booths must be sturdy.
3. Voting booths must have a light, or be adaptable to having lighting attached if needed.
4. Handicapped accessible booths must accommodate voters seated either in wheelchairs or in chairs provided at the precinct.

721—22.23(52) Report. The examiners shall prepare a report clearly stating whether the voting booth has been approved or denied approval for use in Iowa.

22.23(1) Approval permits use. If the report states that the voting booth has been approved for use, it may be adopted for use at elections.

22.23(2) Copy filed with the secretary of state. A copy of the report shall be filed with the secretary of state. A copy of the application of the vendor and all other documents submitted by the vendor shall be filed with the report and retained by the secretary of state.

721—22.24(52) Notification. The examiners shall promptly notify the vendor of their decision and shall provide the vendor with a copy of their report.

721—22.25(52) Denial of certification. If the examiners find that the voting booth does not meet the requirements prescribed by the Code of Iowa and the Iowa Administrative Code, the examiners shall deny certification to the voting booth. The report of the board shall specify the reasons for the denial, as well as all areas in which the voting booth complied with the requirements of the law. Certification may be denied for any of the following reasons:

22.25(1) Failure to meet criteria established by rule 22.22(52).

22.25(2) Failure to pay the examiners' fees and expenses, if required.

22.25(3) Failure to provide the examiners with a sufficient application as required by rule 22.19(52).

721—22.26(52) Application for reconsideration. Following denial of certification a vendor may make the necessary modifications to the voting booth and apply for reconsideration. Aspects of the voting booth which were approved in the initial application do not need to be reexamined unless the examiners find that the modifications may have affected the ability of the voting booth to comply in other areas.

721—22.27(52) Appeal. If the vendor believes the denial of certification is in error, the vendor must file written exceptions with the examiners within 30 days after issuance of the report. The examiners will issue a response to the exceptions within 30 days after filing of the exceptions. A vendor who is aggrieved or adversely affected by a denial after a ruling on exceptions may seek judicial review pursuant to Iowa Code section 17A.19.

721—22.28(52) Reexamination following changes in voting booth. The vendor shall notify the examiners of any changes in the voting booth and shall provide to the examiners the following information when requesting recertification:

22.28(1) Description of the changes made.

22.28(2) Reports of test results conducted for other states following the modifications to the voting booth.

22.28(3) Copies of manuals, instructions, advertisements and other documents required to be included with the application that have been modified since the original application was submitted.

22.28(4) A new request for examination as required by subrule 22.19(8).

721—22.29(52) Rescinding certification.

22.29(1) *Grounds for rescinding certification.* Certification may be rescinded if it is found that:

a. The voting booth does not meet the criteria for approval established in rule 22.22(52).

b. Material changes have been made in the voting booth that do not comply with criteria for approval.

c. A voting booth which has been certified for use has not been purchased by any county in Iowa, or is no longer used by any county in Iowa, is no longer available for purchase from the manufacturer. The examiners may rescind certification of such voting booths without a complaint or contested case proceedings.

22.29(2) *Procedure for rescinding certification.* Complaints regarding voting booths certified for use in Iowa should be filed with the examiners. The examiners shall review all complaints and may initiate a contested case to rescind approval on any ground listed above. The contested case may be conducted before the examiners or before an administrative law judge. A contested case for rescinding approval shall be conducted, to the extent applicable, in accordance with the procedural rules specified in 481—Chapter 10, Iowa Administrative Code.

22.29(3) *Suspension of certification.* If the administrative law judge hearing the contested case, or the examiners, as the case may be, find that the voting booth can be modified to correct the deficiency, certification may be suspended until the deficiency is corrected. If it is found that the deficiency is limited to a specific flaw not present in all models of the voting booth, the suspension may be limited to the deficient models. While certification is suspended, the voting booth may not be used for any election.

After the required modifications have been made, the vendor may apply for reexamination of the voting booth following the procedure described in rule 22.28(52).

22.29(4) *Further use prohibited.* If certification of voting booth is rescinded without qualification, no further use shall be permitted by any county.

Rules 22.19(52) to 22.29(52) are intended to implement Iowa Code sections 17A.19, 49.25(3), 52.5, 52.6, and 52.26.

721—22.30 to 22.39 Reserved.

721—22.40(52) Public testing of voting machines. All voting machines shall be tested publicly before use at any election, as required by Iowa Code section 52.9.

22.40(1) The machine shall be inspected to determine that the machine has been prepared properly for the election at which it will be used. The following information shall be verified:

a. Each machine has the correct ballot labels or strips for the election and the precinct in which it will be used.

b. All ballot strips or labels are aligned with the correct levers or buttons.

c. All counters are set at zero before the beginning of the test.

22.40(2) The machine shall be tested to determine the following:

a. The lever or button to be used to cast votes for each candidate operates correctly.

b. The voter cannot cast votes for more candidates for any office than the number to be elected.

c. The voter may change any vote cast (except a write-in vote) before pressing the button or lever to record the voter's ballot.

d. All unassigned buttons or levers are locked out or will not operate to cast votes.

e. The machine records all votes cast and no others. A written tally of the test votes shall be prepared before the test. The results of the test voting shall be recorded. The results of the machine tabulation shall be printed and compared with the test plan. If there are differences, the cause of the discrepancy shall be determined. If the cause of the discrepancy cannot be determined and corrected, the program or equipment shall not be used at the election. Both the test plan and the results shall be kept as part of the record of the election, as required by Iowa Code section 50.19.

f. The voter may cast as many write-in votes for each office on the ballot as there are positions to be filled. The write-in mechanism works correctly.

g. For primary elections: The voter may cast votes for the candidates of only one political party.

h. For general elections: The straight party mechanism casts one vote for each candidate of the designated political party and casts no other votes. The voter may override a straight party vote by removing a vote cast for any candidate and then may vote for another candidate.

22.40(3) Following the test the machine shall be inspected to determine that:

a. All counters have been returned to zero.

b. All required locks or seals are in place.

c. The machine is ready for operation at the polls.

This rule is intended to implement Iowa Code chapter 52.

721—22.41(52) Public testing of optical scan systems. All automatic tabulating equipment shall be tested before use at any election, as required by Iowa Code sections 52.35 and 52.38.

22.41(1) The equipment shall be inspected to determine whether it has been prepared properly for the election at which it will be used. The following information shall be verified:

a. The correct program cartridge is in place for the election and the precinct or precincts in which it will be used.

b. The appropriate ballots are available for the test of each automatic tabulating device to be used in the election.

c. All counters are set at zero before beginning the test.

22.41(2) Each automatic tabulating device shall be tested to determine the following:

a. The device and its programs will accurately tabulate votes for each candidate and question on the ballot.

b. Votes cast for more candidates for any office than the number to be elected will result in the rejection of all votes cast for that office on that ballot. Votes properly cast for other offices on the same ballot shall be counted.

c. The tabulating equipment records all votes cast and no others. A written tally of the test votes shall be prepared before the test. The results of the test voting shall be recorded. The results of the machine tabulation shall be printed and compared with the test plan. If there are differences, the cause of the discrepancy shall be determined. If the cause of the discrepancy cannot be determined and corrected, the program or equipment shall not be used at the election. Both the test plan and the results shall be kept as part of the record of the election, as required by Iowa Code section 50.19.

d. The voter may cast as many write-in votes for each office on the ballot as there are positions to be filled. The write-in votes are reported correctly.

e. For primary elections: The tabulating equipment accurately records votes cast for all political parties.

f. For general elections: The straight party votes are recorded as one vote for each candidate of the designated political party, and no other votes are recorded. The voter may override a straight party vote by voting for any candidate not associated with that political party. For offices to which more than one person will be elected, if a voter has chosen to override a straight party vote, only the candidates whose names are marked shall receive votes.

22.41(3) Following the test, the tabulating equipment shall be inspected to determine that:

a. All counters have been returned to zero.

b. All required locks or seals are in place.

c. The automatic tabulating equipment is ready for operation at the election.

22.41(4) Test deck submitted by observers. Any person who is present at the public test may mark ballots to be used to test the voting equipment. The following conditions apply:

a. Not more than ten ballots may be submitted by any person.

b. Only official ballots provided by the commissioner at the test shall be used. The commissioner may provide sample ballots or photocopies of sample ballots to anyone upon request.

c. The preparer shall provide a written tally of the test deck.

d. The results of the machine tabulation shall be printed and compared with the preparer's tally. If there are differences, the cause of the discrepancy shall be determined. If the cause of the discrepancy cannot be determined and corrected, the program or equipment shall not be used at the election.

e. The test decks, the preparer's tally, and the printed results of the test shall be kept with the records of the election and preserved as required by Iowa Code section 50.19.

This rule is intended to implement Iowa Code chapter 52.

721—22.42 to 22.49 Reserved.

721—22.50(52) Electronic voting systems—use for absentee voting. Rescinded IAB 10/30/02, effective 1/1/03.

721—22.51(52) Instructions. Rescinded IAB 10/30/02, effective 1/1/03.

721—22.52(52) Counting center tabulation provisions. Rescinded IAB 10/30/02, effective 1/1/03.

721—22.53 to 22.99 Reserved.

SPECIAL PAPER BALLOT SYSTEMS

721—22.100(52) Special paper ballots, portable vote tallying systems, and central count systems. The board of supervisors of any county may authorize, purchase and order the use of special paper ballots and a portable vote tallying system for voting at any or all of the polling places or for absentee voting within a county at any election. The supervisors may also authorize the use of special paper ballots in conjunction with a central count system.

721—22.101(52) Definitions. The definitions established by this rule shall apply whenever the terms defined appear in relation to a portable vote tallying system used with the type of ballot defined in this rule.

“Ballot” means all of the offices or measures to be voted upon at a single election, whether they appear on one or more special paper ballots.

“Central count system” means a system employing special paper ballots under which votes are cast by voters marking special paper ballots with a vote marking device and are counted by use of automatic tabulating equipment at a counting center pursuant to Iowa Code section 52.37.

“Overvote” means to vote for more than the permitted number of choices for any office or question on a ballot.

“Portable vote tallying system” means a system employing special paper ballots under which votes are cast by voters marking special paper ballots with a vote marking device and are counted by use of automatic tabulating equipment located in the precinct polling place.

“Secrecy envelope” means a reusable envelope of sufficient construction that when the special paper ballot is inserted in it all portions indicating voting marks are hidden from view.

“Special paper ballot” means a printed ballot designed to be marked by a voter with a vote marking device.

“Tabulating device” means the portable apparatus which removes the special paper ballot from the secrecy envelope, examines and counts the votes recorded on the special paper ballot, and produces a paper printout of the results of the voting.

“Ticket” means each list of candidates nominated by a political party or group of petitioners.

“Undervote” means to vote for fewer than the permitted number of choices for any office or question on a ballot.

“Voting target” means the space on a special paper ballot which the voter marks to cast a vote for a candidate, judge or question. This target shall be printed according to the requirements of the voting system to be used to read the ballots.

721—22.102(52) Special paper ballots. The special paper ballots shall be printed pursuant to Iowa Code chapters 43 and 49 and by any relevant provisions of any statutes which specify the form of ballots for special elections, so far as possible within the constraints of the physical characteristics of the system.

22.102(1) The special paper ballots may be printed on both sides of a sheet of paper. If both sides are used, the words “TURN THE BALLOT OVER” shall be clearly printed in at least 24-point type (1/4” high) on the front and the back of the special paper ballot, at the bottom.

22.102(2) Printed at the top of the front side of the special paper ballot shall be the name and date of the election; the words, “Official Ballot”; a designation of the ballot rotation, if any; and a facsimile of the commissioner’s signature.

22.102(3) The voting target shall be printed opposite each candidate's name and write-in line on the special paper ballot, and opposite the "yes" and "no" for each public measure and judge. Wherever possible, the voting target shall be printed on the left side of the name or "yes" and "no".

22.102(4) For partisan primary elections, the names of candidates representing each political party shall be printed on separate special paper ballots. The ballots shall be uniform in quality, texture and size. The name of the political party shall be printed in at least 24-point type ($\frac{1}{4}$ " high) at the top of the ballot.

22.102(5) There shall be printed on the ballot a line to accommodate the initials of the precinct election official who endorses the ballot as provided in Iowa Code sections 43.36 and 49.82.

22.102(6) It is not necessary for public measures to be printed on colored paper.

22.102(7) Ballots shall be coded as necessary to allow the tabulation program to identify the appropriate ballots for the precinct. Ballots shall be coded so the tabulating device can identify by precinct the votes cast for each office and question on the ballot by precinct. The votes from the absentee and special voters precinct shall be reported as a single precinct. Identical ballots shall not be coded to identify groups of voters within a precinct.

721—22.103 to 22.199 Reserved.

PRECINCT COUNT SYSTEMS

721—22.200(52) Security.

22.200(1) At least one tabulating device shall be provided at each precinct polling place for an election.

22.200(2) The maintenance key or keys used to gain access to the internal parts of the tabulating device shall be kept in a secure place and in a secure manner, in the custody of the commissioner. The key used to obtain the paper printout shall be kept by the chairperson of the precinct election officials in a secure manner.

721—22.201(52) Programming the tabulating devices for precinct count systems.

22.201(1) All programming of tabulating devices shall be performed under the supervision of the commissioner. The devices shall be programmed to ensure that all votes will be counted in accordance with the laws of Iowa. Tabulating devices shall be programmed to reject ballots:

- a. Not coded to be used in the precinct.
- b. That are read as blank.
- c. That have one or more overvoted offices or public measures.

If a ballot is rejected for any of the reasons above, the voter shall be offered the opportunity to correct the ballot. The defective ballot shall be marked “Defective” and kept with other spoiled ballots. If the voter is not available, or declines to correct the ballot, the ballot shall be inserted into the precinct counter without further examination.

22.201(2) All tabulating devices shall be tested before each election in accordance with Iowa Code section 52.38. In addition to any certification produced on the printout, the paper printout produced in testing the tabulating device shall be signed at the end where the tape will be detached from the machine by the person conducting the test and by any observers present at the test. The tape shall be torn or cut across the signature, so that a portion of the signature is on the tape remaining on the tabulating device. The test results tape, including a part of the tester’s signature, shall be delivered to the precinct election officials to display throughout election day with the report showing all counters have been reset to zero in the precinct. Immediately after the test is finished, the tabulating device, the ballot box, and the door to any compartment containing the programming for the election shall be sealed or locked by the person performing the test.

721—22.202 to 22.220 Reserved.

721—22.221(52) Sample ballots and instructions to voters. Sample special paper ballots and printed instructions for casting votes on special paper ballots shall be prominently displayed in each polling place. Instructions shall also be displayed inside each voting booth. Each special paper ballot shall also include an example of the method of marking the ballot recommended by the manufacturer of the tabulating device. Further instructions shall be provided to any voter who requests assistance in accordance with Iowa Code section 49.90.

721—22.222 to 22.230 Reserved.

721—22.231(52) Emergency procedures. Each precinct shall be furnished with an emergency ballot box which is suitably equipped with a lock and key or numbered, tamperproof seal. In the event of power failure or malfunction of the tabulating device, ballots which have been voted shall be deposited in the locked or sealed emergency ballot box. The voted ballots so deposited may be removed from the locked emergency ballot box and tabulated before the polls close whenever a properly functioning tabulating device becomes available, or the voted ballots so deposited may be removed and counted manually immediately after the polls are closed.

721—22.232(52) Manner of voting. After the precinct election official has endorsed a special paper ballot, the official shall instruct the voter to use only the marker provided. The special paper ballot shall be inserted in a secrecy envelope and given to the person who is entitled to receive the ballot in accordance with the provisions of Iowa Code section 49.77.

22.232(1) Upon receipt of the ballot in the secrecy envelope, the voter shall retire alone to a voting booth and without delay mark the special paper ballot.

22.232(2) The voter shall vote upon the special paper ballot by marking the appropriate voting target with a vote marking device or a #2 pencil in the manner described in the instructions printed on the ballot.

When a write-in vote has been cast, the special paper ballot must also be marked in the corresponding voting target in order to be counted.

22.232(3) After marking the ballot, the voter shall replace it in the secrecy envelope and leave the voting booth at once.

22.232(4) The voter shall at once deposit the ballot, still enclosed in the secrecy envelope, in the tabulating device so that the special paper ballot is automatically removed from the secrecy envelope, the votes tabulated, and the special paper ballot deposited in the ballot box.

22.232(5) If the tabulating device is not equipped with a mechanism that will not permit more than one ballot to be inserted at one time, the voter shall be required to hand the ballot in the secrecy envelope to the precinct election official without revealing any of the marks on the ballot. The precinct election official shall at once deposit the ballot in the manner described in subrule 22.232(4).

721—22.233 to 22.239 Reserved.

721—22.240(52) Results. After the polls are closed and all of the special paper ballots have been processed by the tabulating device, the precinct election officials shall:

22.240(1) Unlock the tabulating device and obtain a paper printout showing the votes cast for each candidate and public measure.

22.240(2) Fasten the paper printout to the official tally sheet.

22.240(3) Unlock or remove the seal on the ballot box and manually count the valid votes on any special paper ballots found in the portion(s) of the ballot box designated for unread ballots and ballots with write-in votes, and enter the votes so counted on the official tally sheet in the proper place. The officials shall follow the procedures in Iowa Code section 53.37(2) for counting damaged, defective or unreadable ballots.

22.240(4) Seal all special paper ballots in a transfer case to be returned to the commissioner in accordance with Iowa Code section 50.12.

22.240(5) It is not necessary for the precinct officials to separate primary election ballots by political party.

721—22.241(52) Electronic transmission of election results. If the equipment includes a modem for the electronic transmission of election results, the precinct officials may transmit the results after a printed copy has been made.

721—22.242 to 22.249 Reserved.

721—22.250(52) Absentee voting. Printed instructions as set out in subrule 22.53(8) of this chapter shall be included with the special paper ballot or ballots given to or mailed to each absentee voter.

721—22.251(52) Absentee voting instructions. Written instructions to the voter shall be sent with every absentee ballot.

22.251(1) The instructions to the voter shall be in substantially the following form:

STATE OF IOWA
ABSENTEE VOTING INSTRUCTIONS

READ ALL INSTRUCTIONS CAREFULLY BEFORE VOTING!

WARNING: Do not mark or fold your ballot except as outlined in these instructions. If your ballot is not properly marked, your vote cannot be counted.

The main points:

- | | |
|--|--|
| <p>☛ Vote in secrecy; use a #2 pencil.</p> <p>☛ Complete, sign and date the affidavit.</p> <p>☛ Seal the ballot inside the affidavit envelope.</p> | <p>☛ Return the ballot on time:
By mail before election day, or
Deliver to Auditor by x p.m. __/__/__.</p> |
|--|--|

YOUR BALLOT PACKET CONTAINS

- “Official Ballot”.
- Secrecy envelope to enclose “Official Ballot”.
- Affidavit envelope.
- Return envelope.

IF YOU SPOIL YOUR BALLOT

- Put the ballot and other materials in return envelope.
- Write “SPOILED BALLOT” on the return envelope.
- Mail or take the entire packet to the auditor. A new packet will be sent to you.

IF YOU NEED HELP TO VOTE

If you are blind, cannot read, or cannot mark your own ballot because you are disabled, you may choose someone to help you vote. However, these people cannot help you vote:

- your employer.
- an agent of your employer.
- an officer or agent of your union.

MARKING YOUR BALLOT

1. Vote in secrecy. Mark your ballot so that no one else will know how you voted, unless you need help to vote.
2. Study the ballot carefully before voting. Marks cannot be erased without spoiling the ballot.
3. Use a #2 pencil [or describe other appropriate marker].
4. Voting for candidates. Mark the [describe voting target] next to the names of the candidates you want to vote for. [Show sample voting mark.]

[] CANDIDATE NAME

For some offices you may vote for more than one person. Watch for instructions under each office title that say, "Vote for no more than ____."

5. Write in votes. If you want to vote for a person whose name is not on the ballot:
 - a. Write the name of the person on the line after the names of the other candidates, AND
 - b. Mark the [describe voting target] next to the name you have written.
6. Overvoting. If you mark more [describe voting target] for an office than the number of people that can be elected, your vote for that office will not be counted.
7. No extra marks. Make no marks on the ballot except the marks you make to vote.

RETURNING YOUR BALLOT

This ballot must be returned to the county auditor even if you don't vote.

Follow instructions on the Affidavit Envelope for returning your ballot.

**IF YOUR BALLOT IS REJECTED BEFORE THE BALLOT ENVELOPE IS OPENED,
YOU WILL BE NOTIFIED OF THE REASON.**

22.251(2) In addition to the instructions provided above, the following information shall be inserted in the instructions provided to voters at the general election:

- a. *Voting on questions.* To vote for a question, mark the [describe voting target] next to the word "YES." To vote against a question, mark the [describe voting target] next to the word "NO."
- b. *Voting on judges.* To vote to keep a judge in office, mark the [describe voting target] next to the word "YES" opposite the judge's name. To vote to remove a judge from office, mark the [describe voting target] next to the word "NO."
- c. *Straight party voting.* To vote for all of the candidates of a political party, mark the [describe voting target] next to the name of that party. If you mark a straight party vote you may change your straight party vote for any office by marking the [describe voting target] for a candidate of another party. If you can vote for more than one person for an office, you must mark all of your candidate choices if you are splitting your vote between candidates of two or more parties.

721—22.252 to 22.259 Reserved.

721—22.260(52) Specific precinct count systems. Additional rules are provided for the following systems approved for use in Iowa.

721—22.261(52) ES&S Model 100—system messages and solution codes. The numbers in the right-hand column of this chart correspond to solution codes printed after the chart. Precinct election officials and others working with this system shall be provided with the appropriate information from the chart.

System Message	When to expect this message	What to do
Accept blank ballot	Polls open: reading ballots	1
Audit log full	Polls open: reading ballots	4
Counter block failed CRC	Preelection testing and setup	6
Counters are full	Polls open: reading ballots	4
Counters are in overflow	Polls open: reading ballots	4
Counters cannot hold next count	Polls open: reading ballots	4
Counters cleared	Election day start-up	0
DRAM counter space bad	Polls open: reading ballots	4
Election definition failed CRC	Preelection testing and setup	4
Erroneous arithmetic operation	Anytime	4
Error accessing NVRAM	Polls open: reading ballots	4
Error getting machine ID	Election day start-up	4
Error in initializing modem	Modem transmission of results	5
Error in opening modem	Modem transmission of results	5
Error in receiving command request	Modem transmission of results	5
Error in receiving login request	Modem transmission of results	5
Error in receiving password request	Modem transmission of results	5
Error reading PCMCIA card	Polls open: reading ballots	4
Error reading system audit log	Polls open: reading ballots	4
Error seeking on PCMCIA card	Preelection testing and setup	6
Error setting line parameters	Preelection testing and setup	6
Error setting real time clock	Preelection testing and setup	6
Error writing PCMCIA card	Polls open: reading ballots	4
Error writing system audit log	Polls open: reading ballots	4
Event log failed CRC	Preelection testing and setup	6
Host rejects password	Modem transmission of results	5
Incompatible PCMCIA card format	Preelection testing and setup	6
Incompatible system log format	Preelection testing and setup	6
Invalid instruction	Polls open: reading ballots	4
Invalid memory reference	Polls open: reading ballots	4
Invalid Seq-Type-Split	Polls open: reading ballots	3
Memory parity error	Polls open: reading ballots	4

System Message	When to expect this message	What to do
Missing scanner block	Polls open: reading ballots	4
No ballots scanned	Preelection testing and setup	6
Overvote on race XXXXX	Polls open: reading ballots	2
Party preference race missing	Preelection testing and setup	6
PCMCIA card not inserted	Polls open: reading ballots	4
PCMCIA driver missing	Polls open: reading ballots	4
PCMCIA header section failed CRC	Polls open: reading ballots	6
Printer time-out	Polls open: reading ballots	4
Race results cross-check fail	Polls open: reading ballots	4
Results sent successfully	Modem transmission of results	0
Status results cross-check fail	Polls open: reading ballots	4
Successfully scanned ballot	Polls open: reading ballots	0
System audit log failed CRC	Polls open: reading ballots	4
Unable to initialize diverter	Election day start-up	4
Unable to initialize scanning system	Election day start-up	4
Unable to load signal handlers	Election day start-up	4
Unable to update counters	Polls open: reading ballots	4
Unload election definition		4
UNKNOWN ERROR, CODE: XXX	Polls open: reading ballots	4
Voltage too low	Anytime	check plug, then 4
100-Missed orientation marks	Polls open: reading ballots	3
101-Missed timing marks	Polls open: reading ballots	3
102-Missed orientation marks	Polls open: reading ballots	3
103-No data found	Polls open: reading ballots	3 or 4
104-Missed back side data mark	Polls open: reading ballots	4
105-Scanner interrupted	Polls open: reading ballots	3
106-Skipped orientation mark	Polls open: reading ballots	4
107-No timing marks found	Polls open: reading ballots	3
108-Inaccurate read	Polls open: reading ballots	3
109-Inaccurate read	Election day start-up	4
110-Inaccurate read	Polls open: reading ballots	3
111-Missed orientation marks	Polls open: reading ballots	3
112-Missed timing marks	Polls open: reading ballots	3
113-Invalid code mark	Polls open: reading ballots	3

System Message	When to expect this message	What to do
114-Invalid code type	Polls open: reading ballots	3
115-Invalid code mark	Polls open: reading ballots	3
116-Inaccurate read	Preelection testing and setup	6
117-Scanner interrupted	Preelection testing and setup	6
118-Scanner interrupted	Preelection testing and setup	6
119-Scanner interrupted	Preelection testing and setup	6
120-Scanner interrupted	Preelection testing and setup	6
121-Missed back orientation mark	Polls open: reading ballots	3
123-Scanner interrupted	Polls open: reading ballots	3 then 4
124-Scanner interrupted	Polls open: reading ballots	4
125-Error reading CMOS memory ballot	Preelection testing and setup	0
126-Error reading ballot	Polls open: reading ballots	3
127-Multiple ballots detected	Polls open: reading ballots	3
128-Diverter not initialized	Polls open: reading ballots	4
129-Diverter detection error	Polls open: reading ballots	4
130-Diverter error	Polls open: reading ballots	4
131-Ballot skewed	Polls open: reading ballots	3
132-Ballot dragged	Polls open: reading ballots	3 then 4
Unknown error code: XXX	Polls open: reading ballots	3 then 4
???-Unknown error on decode	Polls open: reading ballots	3 and 4
Unidentified mark - check your ballot	Polls open: reading ballots	7

Solution Codes

0. This is okay—you don't need to do anything.
1. Ballot decision—BLANK BALLOT: See Solution Code 2.
2. Ballot decision—OVERVOTED BALLOT:

If the voter is still there, offer the voter the opportunity to mark the ballot using the proper pen or pencil. If the voter declines the offer, press “accept” and reinsert the ballot. If the voter wants to correct the ballot press “reject.” Mark the unreadable ballot or overvoted ballot “SPOILED” and keep it with other spoiled ballots. If the voter asks to use the original ballot as a guide to marking the new ballot, be sure the voter returns the unreadable ballot to you before placing the new ballot in the counter. If the voter has left the polling place, press “accept” and reinsert the ballot.

3. Ballot decision—Ballot not read by counter.

First ask the voter to reinsert the ballot. If the message repeats, take the voter aside to allow other voters to insert their ballots into the counter. With the permission of the voter, a precinct official shall inspect the ballot by comparing it with another of the same ballot type. Assure the voter that you will not reveal to anyone how the ballot was marked. There are several possible reasons for this message to appear.

- The ballot is flawed or misprinted. Solution: Replace ballot. Mark the unreadable ballot “SPOILED.” Keep it with other spoiled ballots. If the voter asks to use the original ballot as a guide to marking the new ballot, be sure the voter returns the unreadable ballot to you before placing the new ballot in the counter.

- The wrong ballots were provided to the precinct officials. Check other ballot packages to see if all ballots are wrong. If all of the offices and candidates are the same and only coding or rotation is different, allow voters to use the ballots on hand. Notify the auditor’s office for replacement ballots. Follow the procedures for Solution Code 4 until the correct ballots are delivered.

- The voter has attempted to use a ballot other than the one provided by the precinct officials. This voter shall be challenged for using an illegal ballot. Place the ballot in the special ballot envelope.

- The wrong memory card is loaded in the machine. See Solution Code 4.

4. Equipment problem.

Call the auditor’s office, report the message and ask for a new memory card or counter. Until a replacement arrives, place all ballots in a sealed ballot box. When the new memory card or counter has been installed, two precinct officials of different parties shall feed all ballots into the counter, including all previously counted ballots and ballots received while the counter was not working.

5. Modem transmission problem.

Try again to send election results. If the error message repeats, be prepared to read the election results over the telephone. Call the auditor’s office to report the problem.

6. Precinct election officials do not need instructions for this message.

7. Faint mark in voting target.

If the voter is present, ask the voter to re-mark or darken the marks on the ballot. If the voter finds faint marks that the voter did not intend as votes, the voter should be given a new ballot. Replace ballot. Mark the unreadable ballot “SPOILED.” Keep it with other spoiled ballots. If the voter asks to use the original ballot as a guide to marking the new ballot, be sure the voter returns the unreadable ballot to you before placing the new ballot in the counter. If the voter has left the polling place, try to reinsert the ballot. If the message repeats, open the emergency ballot box and store the ballot until after the polls are closed, but before the results are printed. Any ballots in the emergency ballot box shall be fed into the ballot reader by two precinct officials of different parties. All ballots rejected with the error code “faint mark in voting target” shall be duplicated by two precinct officials of different parties and substituted for the defective ballot. Using a red pen, duplicate ballots shall be clearly labeled as such, and shall bear a serial number which shall also be recorded on the defective ballot. The original, defective ballot shall be enclosed in the envelope designated for the return of disputed ballots.

721—22.262 to 22.341 Reserved.

CENTRAL COUNT SYSTEMS

721—22.342(52) Tally list for central count precincts. An abbreviated tally list shall be provided for each precinct.

22.342(1) The tally list shall include a precinct officials' certificate in substantially the following form:

Precinct Tally List—Precinct Officials' Certificate

Precinct Name: _____ County, Iowa
 Number of valid "Voter's Declarations of Eligibility" slips signed: _____
 Ballot Box seal number: _____

We, the undersigned, Precinct Election Officials of this precinct do hereby certify that the number of valid "Voter's Declarations of Eligibility" slips listed above represents the total number of persons who cast ballots in this precinct.

After all persons entitled to do so had cast their votes, the ballot box was sealed with the seal number listed above in the presence of all of the precinct election officials.

The sealed ballot container will be delivered to the counting center by:

_____, a member of the _____ political party, and
 _____, a member of the _____ political party, both
 of whom are officials of this precinct.

Signed by all precinct election officials of this precinct:

Date: ____/____/____ (1) _____ (etc.)

22.342(2) At the counting center, the number of ballots in the ballot box shall be compared to the number of valid signed declarations of eligibility reported on the precinct officials' certificate. If the number of votes from any precinct differs from the number of valid signed declarations of eligibility, the reason for the difference shall be determined and reported in the tally list for the election.

22.342(3) Write-in votes from each precinct shall be reported on a separate tally sheet which provides columns for the names of offices, the names of persons receiving votes, space to tally the votes received, and a column in which to report the total number of votes cast for each person. In tally lists provided for primary elections, separate pages shall be provided to tally the write-in votes for each political party. Each tally sheet for write-in votes shall be attested to by each member of the resolution board who participated in the count.

22.342(4) The officials at the counting center shall certify the procedures followed at the counting center in substantially the following form:

Counting Center Tally Certificate

_____ County

We, the undersigned officials of the Counting Center for this county, do hereby certify that all ballots delivered from the precincts for this election were tabulated as shown in the attached report. A separate record of the votes cast in each precinct is included.

We further certify that a record of any write-in votes or other votes manually counted pursuant to Iowa Code chapter 52 is included in this Tally List, and that the numbers entered in the column headed "Total Votes" are the correct totals of all votes manually counted by us.

Signed at the Counting Center located at _____

on ____/____/____, ____:____ am/pm.

[signatures of counting center officials]

1. _____

(etc.)

22.342(5) The record generated by the tabulating equipment for each precinct shall be attached to or enclosed with the tally list and shall constitute the official return of the precinct.

721—22.343 to 22.430 Reserved.

VOTING MACHINES

721—22.431(52) Temporary use of paper ballots in voting machine precincts. The county commissioner of elections shall furnish to each precinct where voting machines are to be used for any election a supply of paper ballots.

22.431(1) Conditions under which paper ballots shall be used. In any precinct in which voting machines are designated as the method of voting for any election, a paper ballot shall be furnished to any person offering to vote, in addition to those provisions set out in Iowa Code sections 49.81 and 49.90, if:

- a. A power failure prevents use of the voting machines.
- b. A malfunction occurs which prevents the use of one or more voting machines.
- c. It is found that any voting machine has been prepared with all or part of a ballot strip meant for another precinct.
- d. It is found that the ballot strips for any voting machine have been misprinted.
- e. Any other condition exists due to a fault of the voting machine or machines which prevents the person or persons offering to vote at that precinct from casting their votes.

22.431(2) The ballots to be furnished by the county commissioner of elections shall be the same as the ballots used in carrying out the provisions of Iowa Code sections 49.81 and 49.90, and voting shall be in accordance with the provisions of the Code relating to paper ballots.

22.431(3) In the event any paper ballots are cast as provided in this rule, the chairperson and one other precinct election official, one of whom shall represent each of the political parties, shall place the folded, voted ballots in a closed container to be kept in a secure manner in a secure place.

22.431(4) Counting the ballots.

a. If, during the time the polls are open, the problem is corrected and the voting machine or machines are found to be usable, the two precinct election officials responsible for the security of the paper ballots voted under these rules may open the closed container and record the votes which have been cast on the paper ballots on the voting machine or machines.

b. In the event that it has not been possible to record the paper ballots on the machines by the time the polls are closed, the precinct election officials shall manually count the paper ballots in the manner provided in Iowa Code chapter 50.

721—22.432 to 22.460 Reserved.

721—22.461(52) MicroVote Absentee Voting System. This system uses a three-piece ballot including a ballot card with a write-in section on the back, ballot guide, and secrecy envelope. The following rules for the use of the MicroVote Absentee Voting System are prescribed.

22.461(1) The ballot card is used by the voter to indicate the voter's choices. The ballot card has numbered voting targets printed on card stock and is marked with a pencil. Also included on the ballot card is a box marked "For Official Use Only." This box is used for coding to indicate the precinct and rotation of the ballot, if any. Before being sent to the voter, any numbered stubs shall be removed from the ballot card. Space to receive write-in votes shall be printed on one side of the ballot card. Instructions in substantially the following form shall be printed above the spaces for write-in votes:

"To vote for a person whose name is not printed on the ballot information sheet, darken the numbered rectangle on this ballot card that corresponds with the line on which you wish to write in. Write the person's name, the office title, and the corresponding number in the space below.

Name _____	
Office _____	Position # _____

[Similar spaces for at least eleven offices shall be included.]

22.461(2) The ballot guide is a list showing the text of public measures, office titles and candidate names and the voting target numbers to be marked on the ballot card. The order of offices, candidates, public measures and judges shall be determined by the applicable provisions of Iowa Code chapters 43 and 49 and 721—22.102(52). The ballot guide shall include the same code numbers as the appropriate ballot card. The ballot guide shall also include position numbers for write-in votes for each office. The number of write-in positions shall equal the number of persons to be elected to each office.

a. The ballot guide shall include a heading in substantially the following form:

[Election Name] Ballot Guide

[County Name]

Name and Date of Election, and a facsimile of the commissioner's signature.

b. The ballot guide shall include instructions in substantially the following form:

Notice to Voter: In this ballot guide find the position number printed next to the name(s) of the candidate(s) of your choice.

Blacken the rectangle with the same number on the official ballot card. Use only a #2 pencil. To write in a vote for a person whose name is not listed in this guide, blacken the appropriate rectangle on the ballot card, and write the office title and write-in position number and the person's name in the write-in section on the back of the ballot card.

22.461(3) The secrecy envelope is used to conceal the voter's marks. The envelope shall be made of opaque paper and shall be large enough to cover all areas of the ballot card that are used by voters to indicate their choices. The secrecy envelope shall include brief instructions on the outside of the envelope in substantially the following form:

"Secrecy envelope: After you have voted, enclose the ballot card in this envelope."

22.461(4) Write-in votes. To vote for a person whose name is not listed in the ballot guide, the voter shall mark the appropriately numbered write-in voting target for the office on the ballot card and write the office title, position number and person's name in spaces provided on the ballot card.

22.461(5) Tabulation procedures. As the absentee and special precinct board opens the affidavit envelopes containing absentee ballots cast using the MicroVote Absentee Voting System, the board shall remove the secrecy envelopes containing the ballot cards from the affidavit envelope, then remove each ballot card and examine it for write-in votes. Ballot cards containing write-in votes cast at the primary election shall also be labeled with the party name.

The ballot card shall be inspected by two precinct officials, not members of the same political party, who shall determine if the number of votes cast for the office for which the voter has cast a write-in vote exceeds the number of votes allowed for the office. If the total number of votes cast on the ballot card and the number of write-in votes cast do not exceed the allowable number of votes for that office, the ballot card shall be separated from the secrecy envelope and processed. The write-in votes shall be counted as indicated by the voter. If there are more votes cast for an office than the number of positions to be filled, no votes for that office shall be counted.

22.461(6) Precinct election officials shall refer to the following chart to help determine how to tabulate votes cast which do not comply with all instructions.

Tabulation Guide for MicroVote Absentee Voting System

Write-in Vote			Ballot Card Position		Write-in makes office overvoted?	Count write-in vote?	Comments
Office	Pos. #	Name	marked	not marked			
✓	✓	✓	✓		no	yes	1. Preferred method.
✓	✓	✓		✓	no	yes	
✓	✓	✓	✓		yes	no	
✓	✓	✓		✓	yes	no, but ☞	2. Count other votes for that office.
✓	✓	no	✓ or	✓	no	no	3. If there is no name, there is nothing to count.
✓	blank/ wrong	✓	✓		no	yes	4. If the office is clearly identifiable.
✓	blank/ wrong	✓		✓	no	yes	4. If the office is clearly identifiable.
✓	blank/ wrong	✓	✓		yes	no	
✓	blank/ wrong	✓		✓	yes	no, but ☞	2. Count other votes for that office.
	✓	✓	✓		no	yes	
	✓	✓		✓	no	yes	
	✓	✓	✓		yes	no	
	✓	✓		✓	yes	no, but ☞	2. Count other votes for that office.
		✓	✓		no	yes ☞	6. If there is only one write-in vote.
		✓	✓		yes	no	
		✓		✓	no	yes ☞	7. If there is only one office on the ballot.

22.461(7) Instructions to the voter shall be enclosed with every absentee ballot in substantially the following form:

STATE OF IOWA

ABSENTEE VOTING INSTRUCTIONS

for use with the MicroVote Absentee Voting System

READ ALL INSTRUCTIONS CAREFULLY BEFORE VOTING!

WARNING: Do not mark, fold or punch your ballot except as outlined in these instructions. If your ballot is not properly marked, your vote cannot be counted.

The main points:

- | | |
|--|---|
| ➤ Vote in secrecy; use a #2 pencil. | ➤ Return the ballot on time: |
| ➤ Complete, sign and date the affidavit. | By mail before election day, or |
| ➤ Seal the ballot inside the affidavit envelope. | Deliver to Auditor by __ p.m. __/__/__. |

YOUR BALLOT PACKET CONTAINS

- “Official Ballot” card (with numbered rectangles and space for write-in votes, if desired).
- Printed paper ballot guide showing offices and candidates (for information only).
- Secrecy envelope to enclose “Official Ballot” card.
- Affidavit envelope.
- Return envelope.

IF YOU SPOIL YOUR BALLOT

- Put the ballot and other materials in return envelope.
- Write “SPOILED BALLOT” on the return envelope.
- Mail or take the entire packet to the auditor. A new packet will be sent to you.

IF YOU NEED HELP TO VOTE

If you are blind, cannot read, or cannot mark your own ballot because you are disabled, you may choose someone to help you vote. However, these people **cannot** help you vote:

- Your employer.
- An agent of your employer.
- An officer or agent of your union.

MARKING YOUR BALLOT

1. **Vote in secrecy.** Mark your ballot so that no one else will know how you voted, unless you need help to vote.
2. **Study the ballot guide carefully before voting on the “Official Ballot” card.** Marks cannot be erased without spoiling the ballot.
3. **Use a #2 pencil.** Marks made by other pens or pencils might not be seen by the machine that counts the votes. Do not use a red pen or red pencil.
4. **Voting for candidates.** After you have decided who you want to vote for, find the position number printed next to the candidate’s name.

position # → 1 CANDIDATE NAME

Then on the “*Official Ballot*” card fill in the rectangle with the same number. For some offices you may vote for more than one person. Watch for instructions under each office title that say, “Vote for no more than ____.”

5. **Write-in votes.** If you want to vote for a person whose name is not listed in the ballot guide:
 - a. Write the office, position number and the name of the person in the space provided on the back of the ballot card, AND
 - b. Mark the appropriately numbered rectangle next to the write-in position following the names of the candidates for the office for which you wish to write in a vote on the “*Official Ballot*” card. Marking a rectangle without writing a name will not spoil the rest of the ballot.
6. **Overvoting.** If you mark more rectangles for an office than the number of people that can be elected, your vote for that office will not be counted.
7. **No extra marks.** Make no marks on the ballot card except the marks you make to vote.

RETURNING YOUR BALLOT

This ballot must be returned to the county auditor even if you don’t vote.

1. **Affidavit.** After marking your ballot card,
 - a. Read the affidavit on the affidavit envelope,
 - b. Fill in all of the information requested, and
 - c. Sign your name.
 - d. Be sure to include today’s date.
- ➡ **Your ballot will not be counted if you don’t complete and sign the affidavit.**
2. **Use the secrecy envelope.** Do not fold the ballot card; place it in the secrecy envelope. Do not return the paper ballot listing offices and candidates.
 3. Put the secrecy envelope containing the ballot card in the affidavit envelope.
 4. **Securely seal the affidavit envelope.** Your ballot will not be counted if the affidavit envelope is not sealed, or if the envelope has been opened and resealed.
 5. Enclose the affidavit envelope in the envelope addressed to the county auditor.
 6. **Postmark before election day.** If you mail your ballot, the envelope must be postmarked no later than the day before the election.

7. Return postage for this ballot is ____.

8. **Personal delivery.** You may also return your ballot in person, or send it back to the auditor with someone you trust. If the ballot is not mailed, it must be received by the auditor no later than ____ p.m. on election day. Do not return the ballot to a polling place; it will not be counted if you do.

IF YOUR BALLOT IS REJECTED BEFORE THE BALLOT ENVELOPE IS OPENED, YOU WILL BE NOTIFIED OF THE REASON.

22.461(8) In addition to the instructions provided above, the following information shall be inserted in the instructions provided to voters at the general election:

a. Voting on questions. To vote in favor of a question, blacken the rectangle with the same number that appears next to the word “YES” in the question listed in the ballot guide. To vote against a question, blacken the rectangle with the same number as the word “NO.”

b. Voting on judges. To vote to keep a judge in office, blacken the rectangle on the ballot card with the same number as the one next to the word “YES” opposite the judge’s name listed in the ballot guide. To vote to remove a judge from office, blacken the rectangle with the same number as the word “NO.”

c. Straight party voting. To vote for all of the candidates of a political party, blacken the rectangle on the ballot card with the same number as the one next to the name of that party. You can override a straight party vote by voting for a candidate of another party. If you can vote for more than one person for an office, you must mark all of your choices if you are splitting your vote between candidates of two or more parties.

This rule is intended to implement Iowa Code section 52.5.

721—22.462(52) Fidler & Chambers’ Absentee Voting System. Rescinded IAB 10/30/02, effective 1/1/03.

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